



131st MAINE LEGISLATURE

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Legislative Document

No. 1775

H.P. 1138

House of Representatives, April 25, 2023

An Act to Establish a Clean Hydrogen Pilot Program

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator LAWRENCE of York and
Representatives: BOYLE of Gorham, GEIGER of Rockland, RUNTE of York, WOODSOME
of Waterboro, Senators: BRENNER of Cumberland, FARRIN of Somerset, HARRINGTON of
York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 35-A MRSA §123** is enacted to read:

3 **§123. Clean hydrogen pilot program**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Clean hydrogen" means hydrogen produced through a process that results in a life-
7 cycle greenhouse gas emissions rate of not greater than 4 kilograms of carbon dioxide
8 or carbon dioxide equivalents per kilogram of hydrogen generated, as determined by
9 the commission in accordance with IRS production tax credit regulations.

10 B. "Clean hydrogen facility" means a facility that produces clean hydrogen, has a peak
11 electricity demand that is no more than 20 megawatts and meets applicable
12 requirements for a federal production tax credit under the federal act and IRS
13 production tax credit regulations.

14 C. "Federal act" means the Inflation Reduction Act of 2022, Public Law 117-169, 136
15 Stat. 1818.

16 D. "IRS production tax credit regulations" means regulations of the federal Internal
17 Revenue Service adopted pursuant to the federal act governing clean hydrogen
18 production tax credits.

19 E. "Pilot program" means the clean hydrogen program established pursuant to this
20 section.

21 **2. Clean hydrogen pilot program; criteria.** The commission shall establish a clean
22 hydrogen pilot program in accordance with this section. The commission shall choose
23 through a competitive solicitation process 3 clean hydrogen facilities to participate in the
24 pilot program. The first competitive solicitation must occur in 2024 and open no later than
25 January 15, 2024 and close no later than March 15, 2024 unless the commission determines
26 that a longer period is required to achieve the purposes of the pilot program. The
27 commission shall conduct additional bid solicitations annually through 2029 until the
28 commission selects 3 clean hydrogen facilities for participation in the pilot program. Under
29 the pilot program, the commission shall:

30 A. When selecting clean hydrogen facilities:

31 (1) Prioritize facilities with lower greenhouse gas emissions or facilities the
32 commission finds will advance the viability of technology that reduces greenhouse
33 gas emissions;

34 (2) Choose facilities the commission finds are in the public interest and are
35 reasonably likely not to cause significant costs for gas or electric ratepayers; and

36 (3) Require bidders to demonstrate that the owner or operator of the facility:

37 (a) Has control over the site where the facility is to be located; and

38 (b) Has technical and financial capacity to construct, operate and
39 decommission the facility;

40 B. Require the owner or operator of a clean hydrogen facility chosen for the pilot
41 program to ensure that all persons engaged in the construction, alteration or repair of

1 the facility, including all employees, contractors and subcontractors, are paid wages
2 that are not less than the prevailing hourly wages for work of a similar character in the
3 locality in which the facility is located as most recently determined by the Bureau of
4 Labor Standards in accordance with Title 26, section 1308 and in compliance with
5 applicable requirements of the federal act and the IRS production tax credit regulations;
6 and

7 C. Prohibit the sale or purchase of thermal renewable energy credits, as defined in
8 section 3210, subsection 2, paragraph E, associated with the hydrogen produced by a
9 clean hydrogen facility chosen for the pilot program.

10 **3. Exemptions for sales of electricity to clean hydrogen facility.** Sales of electricity
11 to a clean hydrogen facility selected by the commission under subsection 2 are exempt
12 from:

13 A. Any distribution, delivery or related charges regulated by the commission,
14 including, but not limited to, volumetric fees, stranded costs and demand and standby
15 charges; and

16 B. Charges associated with the procurement of energy efficiency resources by
17 transmission and distribution utilities ordered under section 10110, subsection 4-A.

18 **4. Exemption from portfolio requirements.** A competitive electricity provider, as
19 defined in section 3201, subsection 5, is exempt from the requirements established by
20 section 3210 for the portion of its supply portfolio that is sold to a clean hydrogen facility
21 under the pilot program.

22 **5. Rules.** The commission shall adopt rules to implement this section. Rules adopted
23 under this subsection are routine technical rules as defined in Title 5, chapter 375,
24 subchapter 2-A.

25 **Sec. 2. Report.** The Public Utilities Commission, by November 1, 2025, shall submit
26 a report to the joint standing committee of the Legislature having jurisdiction over energy
27 and utilities matters regarding the status of the pilot program. The joint standing committee
28 may report out a bill to the Second Regular Session of the 132nd Legislature based on the
29 report.

30 SUMMARY

31 This bill requires the Public Utilities Commission to develop and oversee a pilot
32 program to produce clean hydrogen. The commission is directed to select 3 clean hydrogen
33 facilities to participate in the pilot program. Energy supplied to a clean hydrogen facility is
34 exempt from all transmission and distribution charges, charges associated with the
35 procurement of energy efficiency resources and the renewable resource requirements
36 established by the Maine Revised Statutes, Title 35-A, section 3210. By November 1, 2025,
37 the commission is required to submit a report to the joint standing committee of the
38 Legislature having jurisdiction over energy and utilities matters regarding the status of the
39 pilot program.